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INTERNATIONAL ARBITRATION:

HOW, AND HOW FAR, IS IT PRACTICABLE?

AN ADDRESS

DELIVERED BY

HON. JOHN A. KASSON, LL.D.

Former U. S. Minister to Austria, to Germany, Etc.

BEFORE THE

U. S. NAVAL WAR COLLEGE,
SEPTEMBER 19, 1896.

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INTRODUCTION.

It is not so very long ago that the naval commander strode the quarter-deck of his ship and looked at his hundred guns with something of the air, and of the manner, of a champion of the ring. He utilized his guns very much as the champion employed his fist. If he wanted an island in the Spanish Main, he knocked down its defenses and took possession. If he wanted some treasure from South American mines, he captured the galleon which transported it. If a merchant of his country wanted a port, or a trading post, which was occupied by a national rival, he sailed in, shot down the stockade, and seized the place. If a foreign tribe or people had no wish to buy the rum, or the opium, exported by his countrymen, he delivered a few broadsides of cogent argument to teach them their duty in swallowing the offensive doses of his national merchandise. If a neutral and weaker fleet lay in its harbor where his enemy might possibly utilize it, he ranged alongside and took possession of it, to teach them the folly of being neutral when a fight was going on. If a naval or commercial rival was forging ahead too conspicuously, he was only too eager to make the ocean dangerous for a rival's navigation. The presence of his flag was a challenge to fight. His national interest was his international law. His joy was in a windward position, the roar of his guns, and the crashing of naval timbers. His courage was reckless, and his cockpit was a butchershop.

The nineteenth century, now closing, has gradually introduced a change of scene. The motive power of the ship, and of the officer, has very radically changed. Fickle winds, and a fickle national morality, have given

place to a steady propelling power for the warship, and a compelling moral principle for the naval commander. There is now an admitted dominion of law over the high seas. It is acknowledged in ports, and protects trading posts and traders even along the Congo, and into the far interior of Africa. The man who treads the quarter-deck is trained in knowledge of this law, and in a scientific school; and is a master of the rules of national morality, as well as of the forces of nature. He seeks to protect human life more than to destroy it. His blows are aimed at the inanimate vehicle rather than at the men whom it carries. The cockpit is a protected hospital instead of a depot of carnage; and anæsthesia converts the knife of the surgeon into a painless instrument of mercy. Neutrals keeping within the law are no longer outraged, and the sea has fewer criminals than the city. International justice is a part of the education required for the quarter-deck. Even diplomacy has left its narrow and secluded lanes, and travels with our fleets. Naval commanders in distant seas have negotiated and won for us new harbors for our ships, new stations for their supplies, new ports for our trade; and new nations, like Japan and Corea, for our commerce and our friendship. In a word, the undercurrent has been toward conditions of peace.

Throughout most of this immense advance to a better condition of the world, the Government of the United States by their judicial courts, their diplomacy, and their navy, have led the way.

There is, however, a further advance in international civilization for which our Republic has attempted to blaze the path through a forest of difficulties. It is to establish a method by which differences between nations which the usual diplomatic agencies fail to adjust may be honorably settled without a resort to war.

At first blush it seems incongruous to address the members of the war-making department of government upon the means by which their active employment may seem to be rendered unnecessary; but I cannot forget

that their arms have often been used in aid of a higher civilization, and to secure honorable peace, and that their intervention in our times is much more often a guaranty of peace than it is a menace of coming war. The naval or military officer of our day (I think it may be safely affirmed) now regards himself as an armed guardian of international peace, not as a challenger to combat, impatiently awaiting the order to fight. The noble minded Frederick of Germany responded to my allusion to his brilliant experience in three wars, that he "hoped he should never see another battle." In this I believe he spoke for all conscientious military officers of the Christian civilization. The intelligence and influence of such officers may also have great effect in helping their governments to a wise conclusion in respect to the limits within which a system of international arbitration may be safely adopted. For no man acquainted with modern history, and with the present condition of international relations, can (in this generation at least) indulge the dream of a practical scheme of arbitration which shall include *all* nations, or *all* the subjects of contention between nations.

I shall, therefore, with the encouragement of the accomplished President of this War College, speak briefly to you upon this pregnant and much mooted question of international arbitration, and how far it is practicable.

3/27/46
G. G. W. L.



“INTERNATIONAL ARBITRATION:

HOW, AND HOW FAR, IT IS PRACTICABLE.”

The Duke de Sully, who was the great minister of a great sovereign, and a philosophic thinker and statesman, and fully acquainted with Henry IV's plan for European peace, gives to posterity a needed warning against ill-considered enthusiasms. He says in his “Memoirs,” “The mind of man pursues with so much complacency, nay even with so much ardor, whatever it fancies great or beautiful, that it is sorry to be made sensible that these objects have frequently nothing real or solid in them.”

It is impossible to give a better definition of the danger to which the promoters of international arbitration are exposed. The idea of extending the judicial system, by which all the differences between man and man are peacefully adjusted, to all differences between the nations of the earth, and so abolish all the savagery and waste of war, is so captivating by its greatness and beauty that we are indeed sorry to be made sensible of the obstacles in the way of its realization. But such obstacles of the most serious nature do exist; and the means for their removal, or for overcoming them, require deliberation more than enthusiasm. The idea is inspiring, like Constantine's beaming cross in the sky; the means of realization must often be a Constantine's imperial authority, and the discipline and force of his organized armies. That is to say, the Christian governments of our day, however earnest for the preservation of peace, must still be strong to enforce and to resist, or some warlike and ambitious power will strangle our peaceful offspring before its maturity.

It is most fortunate that the close of our century finds the United States, England, and France, three of the most powerful nations of the world, most prominent in civilization, and most competent in war, leading in the

consideration of the means for the more constant preservation of peace by some system of arbitration or mediation. If the movement were entrusted to unpractical theorists, clamorous against armies and navies, or if it were urged only by weak and unwarlike nations, it would be wholly ineffective. The effort would simply invite the attention of the strong and grasping to their neighbor's weakness. It would be the hornless lamb walking into the herd of lions to remonstrate against their going about with such sharp teeth and cruel claws. The world has not yet reached a point of Christian civilization where a national lamb, without horns, can assure itself of peace anywhere among the lion herd, except inside the lion. Witness Holstein and Hanover, witness Egypt, witness Madagascar, witness South Africa, and Central and Southern Asia, events that have occurred before our own eyes. Americans must still believe the declaration of the father of our country, that in order to assure peace we must be prepared for war. A nation resolute for peace must be ready to enforce it. It must merit the eulogium which Mark Twain's hero bestowed on the mayor of a rough mining town in the Sierra Nevada: "He was a great man for peace, he *would have* peace, even if he had to fight for it!" Europe owes the continuation of its peace during the last twenty-five years to that strongly armed mid-European League which was devised by the great statesman whose policy was named as "iron and blood." A mournful burden, I admit, is this costly preparation for war, but not so mournful as the dreadful visitation of war itself.

In the present conditions of international morality, we must approve the defensive armaments and armies of peace-loving nations, and justify their gallant sailors and their ships of war for the maintenance of the peaceful and the just against the warlike and the unjust. Both, in the state of affairs now existing, exercise the useful functions of a strong international police. They can only be abolished when international crime ceases;

just as our civic police with their clubs and pistols can be disbanded only when criminals become righteous and peaceful.

There are some professional advocates of peace at all hazards, and at any price, who unhesitatingly ignore history as well as present national conditions. They broadly condemn all wars as acts contrary to the traditions of our religion. They forget that their own liberty to profess and practice their faith was secured to them by long continuous wars on land, and many bloody victories at sea. They should remember that neither the God whom we worship nor the Christ who gave the later Divine Word to the world condemned the army or the soldier. The former, according to the Prophets, raised up armies, and commanded them to war. The latter, instead of rebuking the military service of the Roman Centurion, commended him for his faith, and gave him his blessing; and he only commanded the private soldiers to be contented with their wages, and to avoid violence to individuals and false accusations. Instead of assailing military institutions, needful in those times as they are in ours, he warned military men against their misuse, and so marked out the proper course of action for us.

Whether this be the true religious view of the military question or not, the paramount and controlling fact remains that it is the view of all the Christian governments with which we have to deal. If we proceed upon the opposite view we shall speak to deaf ears. It is folly to ignore the lessons of history. Hitherto God has wrought out the conditions of advancement in Christian civilization chiefly by the aid of armies and navies. Remember the Roman Republic and Empire which opened military roads and the world for the spread of Christianity; the military dominions of Constantine and Charlemagne by which it was protected; the military establishment of the Reformation, and of the rights of conscience and personal worship, by the heroic fighting of North Germany, and of Holland and

England by land and sea. Attest also the American Revolution in behalf of liberty; and our great war in the overthrow of slavery; and even the terrifying overthrow of European despotism in Church and State by the exploding forces of the French Revolution.

In the evolution and advancement of the soul and mind of man and of his civilization we have the correlative illustration of the successive creations and progress of the physical world. As the Almighty in the latter exceptionally employed the volcano, the earthquake, the tornado and the thunderbolt, acting outside the scope of ordinary and peaceful forces, so does He in crises of human progress make use of the violent forces in man to forbid the destruction of human right, and to establish justice. When this round continent is completed, earthquake and volcano will cease. When man's development is perfected, armies and navies need exist no more.

Our function therefore does not seem to be to encourage a crusade against armies and navies, against soldiers and sailors. It is rather to diminish so far as possible the occasions for employing them in actual war. This is a practical and practicable duty in which we are assured of our accord with the Divine will, and in which we shall have the sympathy of most governments, and the respect of all.

In what way can this good and Christian work be most wisely conducted? What is it best to do, and best to avoid doing?

It is decidedly unwise to attempt in the beginning to include too many nations in the same convention. Some of them have uncompleted national purposes, partly just, partly unjust, but which can only be accomplished by the free military arm. Russia, whether right or wrong, *will* have an open port within Corean or Chinese territory, and an open course to the Mediterranean Sea. Austria and Italy and Greece *will* assert their claims to a part of the European territory of Turkey upon the break-up of that Empire. France will not relinquish

her right to war for the recovery of her lost departments nor for her colonial expansion in Africa. Germany will not arbitrate her right to existing provinces won in her late wars. England will not arbitrate her right to colonial conquests, nor (for the present) the duration of her occupation of Egypt. The United States will not submit to any tribunal their policy initiated by President Monroe. Strong nations are as fond of their freedom of action in emergencies as is the individual man in his personal relations. There are some nations and more questions which can not for many years to come be brought within the scope of international arbitration. We must abandon as only a lovely dream of a far future possibility all idea of a universal system of arbitration, whether universal in respect to nations, or universal in respect to the questions to be submitted to arbitration.

The difficulties—I may almost say the impossibility—of embracing many nations in the same scheme were made apparent in the Pan-American Conference of 1890, the story of which is well worthy of remembrance in this connection. There were eighteen Governments represented in the Conference at Washington by accredited delegates. Every one of the seventeen continental and independent American Governments was represented, with addition of the insular Government of Hayti. Only one of the nations was Anglo-Saxon in origin, one was Franco-African, one Portuguese, and fifteen Spanish. Consequently it was necessary to reconcile many different hereditary opinions, political tendencies, and various intellectual training. One of the principal questions submitted to the Conference was that of a general system of international arbitration embracing the eighteen governments. The projet of such a convention was indeed nominally adopted by the representatives of fifteen States; but the two most powerful and intelligent States refused their assent to it. They would have approved of the rule of arbitration in the majority of cases, but demanded that ques-

tions of independence and of national dignity and honor should be excluded from the compulsion of the act. With that condition they were willing to make mediation before war compulsory for all other cases. The opposing delegates were headstrong, and the projet draft was adopted by a majority only, without the sanction of Mexico or Chili.

The second article of this Pan-American Convention made arbitration obligatory for a specific list of differences. The third article made it equally compulsory for all other disputes, saving only, by the fourth article, a controversy which a government may regard as imperiling its independence. Thus it was sought to bind the independent action of each sovereignty throughout all the unknown and unknowable conditions of the future, saving only this one right reserved by each to judge whether its independence was endangered. From a practical statesman's point of view, it is not surprising that only the weaker governments afterward ratified an agreement so reckless of future contingencies. The majority declined all further action upon it. The United States Government itself never approved it, nor submitted it to the Senate for ratification. In compliance with a vote of the Conference our State Department transmitted the projet to European Governments, by whom it was at once committed to their dusty files—*in memoriam*—in some cases without even acknowledgment of its receipt.

I have recited these facts as indicating that all attempts to establish an universal system of arbitration by a single contract including many nations, will be fruitless, and a vain expenditure of labor. Experienced statesmen will have nothing to do with sweeping generalities, binding their nations for an unlimited time and unknown future. Nations cannot be brought to such an absolute agreement by large groups. Their interests, hopes, and ambitions are too diverse to be covered by identical provisions. Two nations only, masters of the knowledge of their past, present, and

probable future relations and disagreements, can be expected to provide permanently for submission of their differences to arbitration. Even in that case there is doubt if they will ever agree to submit all differences without reserve. There must be a specific list of those which shall be submitted, not a specific list of those excepted. That was a fundamental mistake in the projet of the American Conference. Had they limited compulsory submission to certain agreed points, treaties between each of them and the United States might now be in existence.

Nor is it probable that for many years to come governments will see with sufficient clearness the character of the differences likely to arise between them to accept the ideal of a permanent court of arbitration. Among the objections to be offered to that theory is the need in many cases of technical knowledge which requires a special selection of arbitrators with reference to the points in dispute; the differing views of law and justice in which the lawyers are trained in the various countries from which the members of such a court must be chosen; and the dependence of such judges in several countries upon political direction. Such a tribunal might be more wisely appointed, at the beginning, for the purpose of preparing a code which should give definiteness and precision to the rules which should govern a court of arbitration. After the ratification of such a code the trial court might be safely established.

FORMER SCHEMES FOR MAINTAINING PEACE.

Often in the course of the world's weary history have men turned their attention from devastating war to the Christian prophecy of "Peace on earth, good will to men." Authors and statesmen, both the powerful and the powerless, have conceived various devices for the introduction of this hopeful era. But no such device has been self-executing; physical force was always arrayed behind it. The often quoted precedent of the Amphictyonic Confederation of Ancient Greece appears

to have suggested most of these plans. But that institution was as much administrative as judicial. The limits of its power are not definitely known. It interposed between the twelve small kindred states composing it, and seems to have engaged at times in composing the troubles of individual cities. It certainly mediated between them, gave decisions, and enforced them by fines, by expulsion from the confederacy, and even by war. It is not therefore a model for the proposed system of arbitration between states of our civilization. We propose no scheme which requires the use of force, or any other form of physical punishment. Our only compulsion will be that of morality and honor, and the national shame which follows their violation. These are positive and recognized forces in Christendom as they never were among the Greeks.

Nor can the scheme of Henry IV of France, of which the honor of conception is divided between him and Elizabeth of England, furnish a model of any utility for our times and purposes. The most important part of their scheme was aimed at the dismemberment and humiliation of the powerful house of Austria, the spoils of which were to be distributed among princes and republics to purchase their adhesion to this project. When, by such bribery, followed by the contemplated war, they should have united the rest of Europe, and compelled the assent of Austria and Spain to the proposed reorganization of nations and new disposition of territory, then, and only then, was what he was pleased to call the great Christian Republic of Nations to be called into existence. The apportioned delegates of the associated governments, were to meet in common council for the regulation of any dissensions which might thereafter arise between them. Even then it was not to be a simple council of arbitration in the interests of peace. It was to be an assembly with power to apportion assessments and warlike charges among its constituents for the purpose of prosecuting war against the Mohammedan power of Asia. The

death of England's great Queen, followed by the selfish indifference of King James, was a severe blow to the scheme, such as it was. Henry, however, still prosecuted it, and was secretly gaining some adherents in Germany and the north, when the dagger of Ravallac terminated the career of this most noble and picturesque monarch of Europe. With him disappeared from the historic scene that great plan for abolishing the occasion of all future wars between Christian nations by one great contest of mingled diplomacy and force for the redistribution of power in Europe. The project was appropriate to those warlike times, and it ennobled the fame of France by Henry's repudiation of all intention to profit himself by the dismemberment of Austria and Spain. But no part of the scheme offers an example for our times and international circumstances.

The Peace of Utrecht (1713) established new territorial relations and limits. In the period following these treaties the Abbé de St. Pierre who had been present at the conferences, and knew the deplorable effects of the long wars in which Louis XIV had been engaged, published (1729) in three volumes a scheme for securing perpetual peace on the continent, with a voluminous argument in support of it. His plan seems to have been inspired by that of Henry IV, and assumed that the new international boundaries would be perpetual. According to him each of the powers was to renounce the right of war against the others. An assembly of the delegates of all the powers was to determine the mutual disputes by a majority of three-fourths of the delegates. Nineteen principal governments were to have one vote each, minor states and free cities together to have one vote in this general diet. A refractory member was to be compelled to obedience by the combined arms of the others. The spirit of the good Abbé was commended by the good people; but the general verdict was that it was merely the "dream of a good man." A distinguished Cardinal said that the Abbé should have first provided for the conversion of men into angels.

PREREQUISITES OF UNIVERSAL PEACE.

At that time neither rulers nor philanthropic prophets foresaw what God's providence was providing for mankind, even within a century, by the aid of wars more extensive and more disruptive than that generation had ever known. After some renewed hostilities on the continent and on the seas, the way was opened for our American independence; and this was followed by the revolutionary and dethroning wars of France against all Europe. The sequel showed how vain and transient would have been the peace system of Henry or the scheme of St. Pierre, both of which were founded upon the mere agreement of transient crowned heads, and upon the theory that transitory boundaries could be made eternal. There were moral forces, suppressed but fermenting, which must first find expression in the liberty of individual and national development before permanent conditions of peace could be established. The explosion in France prepared the necessary emancipation, and from that time on Providence has been more visibly working, even through wars, for the establishment of universal peace. Witness the necessary enlargement of the United States to the Pacific Ocean, the permanent union of Italian states, the consolidation of German states, the incorporation into Russia of Asiatic states, and the union of Central Europe from the Baltic to the Mediterranean in a defensive bond for the preservation of peace. The retrospect of the philosopher discovers in all these the divinely ordered preliminaries of national contentment, which is a requisite condition of permanent peace. If the declarations and labors of Americans are to have any influence upon the action of international statesmen, it is of prime importance that we show an appreciation of present national conditions, and recognize also the possibility of future international readjustments, unforeseen, but dictated by that higher power which we call Providence. We must neither ignore history nor the

actual controlling motives of chiefs of states, and the desires of nationalities. Some nations are already territorially rounded out and completed; others are not. In some the aspiration for unity of race and language is satisfied; in others not. In some national independence is firmly established; in others it is insecure or oppressed. No universal agreement, therefore, for the renunciation of the right of conquest, or for unrestricted arbitration of disputes, can be expected at the present time. As each generation removes some of the obstacles, and more and more satisfies legitimate national and racial aspirations, there remains always the brighter hope of the future.

THE UNITED STATES, ENGLAND, AND FRANCE.

Several groups, however, of two or more nations, stand already in such relations to each other that their respective ministers could to-day wisely and safely entertain propositions for a permanent rule of arbitration, which should be binding on both in respect to the majority of their probable differences. Our attention will be most usefully directed to these groups, and more especially to those of which our own country is a constituent. For example, consider the two groups of nations composed of

First. The United States of America and the kindred nation of Great Britain;

Second, of the United States of America and their lifelong friend, France.

What are the conditions which render the proposed system of arbitration between the two States first named peculiarly practicable?

1. A like education of their people and of their statesmen in identical principles of law, of religion, and of justice, which predisposes them to a common judicial view of right and wrong.
2. A common language, literature and press continually interchanged, together with an unceasing personal, social, and commercial intercourse, which leave little opportunity for angry mis-

conceptions to crystallize into hostile resolutions. 3. Both nations entertain common views of the duty which a Christian civilization owes to liberty and humanity. 4. For one hundred years they have been accustomed to settle all their extreme disputes, save one, by arbitration or reference, whenever unsettled by diplomacy. 5. Both nations have established an equal reputation for valor and persistence in war by land and sea, and each could inflict upon the material interests of the other enormous injury if the relations of peace were unhappily broken. 6. The many recent expressions of parliamentary and public opinion in both countries which have been formally and publicly exchanged, show that the time is consummately ripe for a general and permanent treaty between the States of this group for the arbitration of most of the international disputes likely to remain after diplomatic negotiations.

Eighty years have now passed, not without troublesome disputes to be sure, but happily without war between them; and so we may reasonably believe that the hostilities and passions of that period do not exist in the breast of men of the present generation. Should, however, some question again arise bringing the two nations into angry conflict, we might wait many years before again entering upon such an era of international amiability as that which prevails to-day. It is an obligation of the highest wisdom to do a right thing at the right time.

There is, however, one very serious embarrassment in the way of a satisfactory agreement with Great Britain. It rests in the differing views of the two Governments in respect to the obligatory character of what we call the Law of Nations. Our Courts and Government have acknowledged under that name the existence of an external body of principles and rules obligatory on us in our international relations, which have obtained their authority prior to and without our express national sanction, and which we must recognize and obey as a member of the family of nations. The English, on the

contrary, deny the authority of these principles and rules until they are expressly adopted in Great Britain, either by legislation or by decisions of their courts. That is to say, international law must be expressly converted into the form of municipal law before it will be binding upon the British Government. A remarkable instance of this occurred in the time of Queen Anne, when process was allowed against the Russian Ambassador by her courts in violation of the most ancient of international rules; and although Parliament was promptly called on to adopt the rule of extraterritoriality, and humble apologies were made, the breach between the two governments because of the scandal was long continued.

Between our Republic and France very serious discussions have arisen during the century, but none which have been beyond the power of diplomacy to adjust. Once indeed (1880) the intervention of a friendly power was agreed upon merely for the appointment of a third Commissioner upon a board for the adjustment of claims. There are no boundary questions between the two dominions, separated by an ocean, and no probable disputes except those which may arise upon the interpretation of international law or treaties, or for damages to neutral interests in war. It is therefore with pleasure that we recall the unanimous passage by the House of Deputies of the French Parliament, on the 8th of July, 1895, of the following resolution:

“Le Chambre invite le gouvernement à négocier le plus tôt possible la conclusion d’un traité d’arbitrage permanent entre la République Française et la République des Etats-Unis d’Amérique.”

A previous resolution of like tenor had been approved by all the Bureaux of the Chamber in 1888, but not forwarded to a vote. We are justified therefore in assuming that French opinion has reached a point as advanced as our own in favor of permanent provisions for arbitration between these two countries, each of

which would revolt at the thought of sundering their ancient and long unbroken friendship.

In regard to the line which separates the questions which may be submitted to arbitration from those which nations must reserve for their own independent decision, the determination must be left to those experienced men who have reached the third degree in international diplomacy. That there are questions of national honor and safety which no self-respecting government will agree in advance to submit to the final decision of a third party, I fully admit. The utmost that can be expected in such cases is an agreement to have recourse to the friendly mediation of a third power, before a resort to hostilities. This proceeding would in most instances be effective in bringing both to an understanding.

From our point of view these two groups of nations can at any time proceed to the negotiation of a treaty providing for the reference to arbitration of all differences hereafter arising between them, which shall not be adjusted through ordinary diplomatic agencies, and so far as they fall within the classification which should be set forth in a special article. They would of course provide for the observance by each in good faith of the decision of the arbitrators. For example, the following classification might be offered as a basis. (a) Conflicting claims of territorial boundary lines or jurisdiction. (b) Conflicting claims of marine jurisdiction, or touching the rights or exemptions of vessels, persons or property on the high seas or in the ports or waters of either nation, whether arising under international law or treaty. (c) All claims for damages made by one government against the other on account of wrongs done to the citizens or subjects of either within the jurisdiction of the other, or to the property of either government, or of its citizens or subjects, in respect to which the government is responsible, or alleged to be responsible. (d) All disputes of law or fact arising under the provisions of any treaty then in force between the two

nations. (e) Differences arising between them in respect to a refusal or violation of diplomatic or consular rights and privileges, alleged by one government against the other. The arbitral tribunal to decide the extent of its conferred jurisdiction.

It is greatly to be desired that a clause should be also agreed to, providing that in all other cases whatever there should be a resort to the mediation of a friendly power or powers before having recourse to hostilities. This alone would be an inestimable contribution to the cause of peace. This space for reflection, this time for the cooling of temper on the part of both ministers and people, this invited intervention of an impartial third party, would in most cases open the road to reconciliation. Even on questions of national honor and dignity an offending or offended government could afford to accept as the award of a court of honor what it could not itself propose. This yielding to the advice of a third and friendly party, instead of to the demands of an ungracious adversary, often saves the points of both honor and safety to the yielding government.

In respect to the differences so subjected to arbitration, they should renounce the right of war against the party conforming to the rule of arbitration, each party retaining the right to enforce the arbitral decrees. Another article would provide for the organization of the court of arbitration. A third might extend the agreement to include all other differences which do not in the judgment of either government involve its safety or its honor.

An international convention embracing these provisions would notably inaugurate that era of peace for which the overburdened nationalities of the Christian civilization have been waiting. There are some groups of nations which will not yet accept it. But so far as concerns the two groups under consideration, there is no serious obstacle in the way of either nation proceed-

ing now by a special commission, or otherwise, to settle the terms of such a convention.

COMPULSORY MEDIATION.

The proposed provision for mediation in all cases before an act of hostility is not new to diplomacy. It has already been once provided for in a general treaty now in force. In the Congo Conference, held in Berlin in 1884-5, I proposed in behalf of the United States the acceptance by the fourteen powers assembled in that Conference of the principle of arbitration for all differences which might arise between them in respect to their Central African possessions. This proposition obtained the adhesion of nearly all the powers, including the very active support of Germany and Italy. France stood resolutely against it. Its prolonged discussion finally resulted in a compromise article (the twelfth of the treaty) which was as far as the French plenipotentiary was willing to go. This article provides that where serious differences between the signatory Powers shall arise on the subject or within the limits of these territories, the Powers involved shall resort to the mediation of one or more friendly governments before appealing to arms. They reserve to themselves as an alternative the option of arbitration. This result—compulsory mediation, optional arbitration—was a great gain to the principles of peace. It is a remarkable fact that Mohammedan Turkey accepted arbitration for Africa, while Christian France and Portugal at that time repudiated it.

During this generation, at least, no powerful nation will bind itself to arbitration much beyond the limitations which have been here generally indicated. For unknown questions, for some unknown conditions of the future, the dreadful right of war will be, and for the present ought to be, retained for the security of that independence, liberty and civilization which have so largely owed to it their modern progress and security. We shall still look to the polished points of our bayonets to reflect on us the desired sunshine of Peace.



